

### **REMARKS**

The Office Action dated December 2, 2005, has been received and carefully noted. The above amendments and the following remarks are submitted as a full and complete response thereto.

Claims 1 – 18 are pending in this application. By this Amendment, all of the Claims are amended to remove the reference numerals. Several of the claims have been amended to more particularly point out and distinctly claim the invention by using more consistent language across the claims. Additionally, Claim 1 is amended to clarify the location of the support element. It is respectfully submitted that no new matter is contained in the Amendments.

Claims 1 – 18 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite in that there was unclear language and that antecedent basis was not present. The claims have been carefully reviewed and amended to more particularly point and distinctly claim that which the Applicants consider to be the invention. The particular informalities noted by the Examiner have been corrected together with others which were found upon review. In addition, all of the reference numerals in the claims have been removed. It is respectfully submitted that no new matter has been added.

Claims 1, 2, 4/2, 5/2, 8, 9, 13, 14/2, 16, and 18 were rejected under 35 U.S.C. §102(b) as being anticipated by United States Patent Number 5,393,086 to Le Masson et al. (hereinafter Le Masson). The Examiner provided a characterization of each of the rejected claims and noted various figures in the reference.

Le Masson discloses the ski for winter sports having a base, a stiffener and a support for bindings extending over the stiffener. Multiple different embodiments are disclosed. The stiffener has front and rear ends connected to the base of the ski by flexible and/or partially rigid connection devices. There is at least one support connected to the base adapted to receive bindings in order to maintain the boot of the skier on the ski. The stiffener has a length smaller than the length of the surface of the base. The stiffener is designed as a beam of an elongated shape and is linked to the base by a connection localized at its two ends. The connection can be flexible and/or partially rigid. The support has the shape of a stirrup in the form of an inverted "U". Generally, the support comprises an upper wall extending laterally and downwardly by two sidewalls to constitute a housing having the shape of a hollow section extending longitudinally and adapted for the passage of the stiffener.

The present invention as claimed in claim 1 is an alpine ski comprising certain specific structural elements. An elongate ski body forms a running surface. A mounting is provided for fastening a binding arranged on an upper face of the ski body and rigidly connected therewith. At least one upper cord element is attached to the ski body extending in the longitudinal direction of the ski body and receiving pressure forces. The at least one upper cord element has ends thereof supported on the ski body and is movably mounted relative to the ski body between the ends of the ski body. The at least one upper cord element is constructed such that under the impact of pressure forces the at least one upper cord element endeavors to deform elastically by flexural buckling and to carry out a deflection movement relative to the ski body. At least one

support element is provided on the mounting which counteracts the deflection movement of the at least one upper cord element by exerting a counterforce.

In the Examiner's characterization of Le Masson, the support elements are considered to be elements 60 and 61 shown in Figure 21.

The Applicants respectfully submits that Le Masson fails to teach or suggest "at least one support element provided on the mounting which counteracts the deflection movement of the at least one upper cord element by exerting a counter force thereon" as required by Claim 1.

According to U.S. patent practice, a reference must teach every element of a claim in order to properly anticipate the claim under 35 U.S.C. §102. In addition, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628,631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "Every element of the claimed invention must be arranged as in the claim . . . . [t]he identical invention must be shown in as complete detail as is contained in the patent claim." Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236 (Fed. Cir. 1989) (emphasis added). Consequently, Claim 1 cannot be anticipated by Le Masson.

Claims 2, 4, 5, 8, 9, 13, 14, 16, and 18 depend directly or indirectly from claim 1. Since claim 1 is clearly distinguished from the teachings of the reference, and is allowable, these claims are also allowable.

Claims 3, 4/3, 6/5/2, 6/5/3, and 14/3 were rejected under 35 U.S.C. §103(a) as being unpatentable over Le Masson in view of United State Patent Number 6,679,513 to

Emig et al. (hereinafter Emig '513). The Examiner admitted that Le Masson does not disclose the upper cord element being formed from a plurality of slightly curved rods which are arranged adjacent to one another spanning the ski body. The Examiner citing Emig '513 for teaching of the cord element being formed from a plurality of slightly curved rods arranged adjacent to one another spanning the ski body.

Emig '513 fails to cure the above noted deficiency of Le Masson.

In view of the above, the Applicants respectfully submit that Le Masson and Emig '513 do not support a *prima facie* case of obviousness for purposes of a rejection of the claims under 35 U.S.C. §103 because a specifically claimed element is missing.

It is respectfully submitted that clear differences exist between the present invention as claimed in claims 3, 4, 6, and 14, and the prior art relied upon by the Examiner. It is further submitted that these differences are more than sufficient that the present invention as claimed would not have been obvious to a person having ordinary skill in the art at the time the invention was made.

The Examiner's notation that claims 7, 10, 11, 12, 15, and 17 would be allowable if rewritten to overcome the formal rejection under 35 U.S.C. §112, second paragraph, is noted with appreciation. At the present time, the Applicants decline the kind invitation to rewrite these claims as independent claims since it is believed that claims from which they depend are allowable.

Accordingly, in view of all of the above, the Applicants respectfully request withdrawal of the above rejections and an early consideration and an early Notice of Allowance.

Should the Examiner believe anything further is desirable in order to place this application in better condition for allowance, the Examiner is requested to contact the undersigned at the telephone number listed below.

In the event that this paper is not considered to be timely filed, the Applicants respectfully petition for an appropriate Extension of Time. Please charge any fee deficiency or credit any overpayment in connection with this paper to Deposit Account Number 01-2300 **referencing Docket No. 103196.00007.**

Respectfully submitted,

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